SAM WERCINSKI

ARIZONA'S REAL ESTATE COMMISSIONER

www.AZRE.gov

PROMOTING MUTUAL RESPECT



Fall 2008 Community Outreach and Education Program



REMEMBER OUR WOMEN AND MEN SERVING OUR COUNTRY AND COMMUNITIES.

THREE ENTITIES: PROMOTING MUTUAL RESPECT

OUR MISSION: TO PROTECT THE PUBLIC

Focus on Resources

Focus on Education

Focus on Partnerships

ILLEGAL SUBDIVISION CASES INVESTIGATIONS / ENFORCEMENT & COMPLIANCE (E&C)

County	October 1st, 2008		June 1st, 2007	
	Investigations	E&C	Investigations	E&C
Apache*	9	2	3	3
Cochise*	3	1	3	1
Coconino*	1	1	0	4
Gila*	6	0	2	1
Graham*	1	0	1	0
Greenlee*	0	0	0	0
La Paz*	2	1	2	0
Maricopa	28	43	40	51
Mohave*	21	0	4	5
Navajo	3	2	1	5
Pima*	7	7	6	5
Pinal	5	12	13	6
Santa Cruz	0	0	1	0
Yavapai	13	4	4	10
Yuma*	0	0	1	0
TOTAL	99	73	82	91

^{*} IGA Partner

"Promoting Mutual Respect"

FOCUS ON PARTNERSHIPS: PROTECTING OUR MILITARY INSTALLATIONS

- DMAFB, Luke, Yuma Proving Ground, Silver Bell, Camp Navajo, and many others
- Military Electronics Range
 - (Ft. Huachuca)
- Subdivision Disclosure Reports
- Ensuring A.R.S §28-8481 is met





ARIZONA DEPARTMENT OF REAL ESTATE FALL 2008 COE

Sam Wercinski

Arizona's Real Estate Commissioner

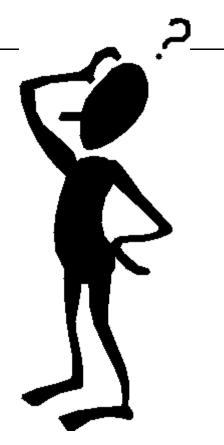
Kathy Howe

Arizona Real Estate Advisory Board Member www.how2educate.com

How much do we know at this point?

QUIZ

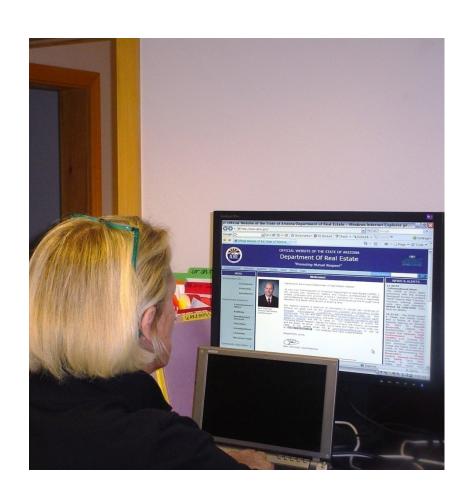
Course Overview





1) Where can I find the Homebuyers' and Renters' Bill of Rights, and what is it?

2) What is a Commissioner's Advisory?





3) As an agent, if my brokerage closes, can I take my listings with me to the next brokerage?

4) My renewal license is good for 4 years; how often is continuing education required?



48 months

24 months





5) <u>How</u> and <u>when</u> do I report my continuing education to the Department?



6) What is a

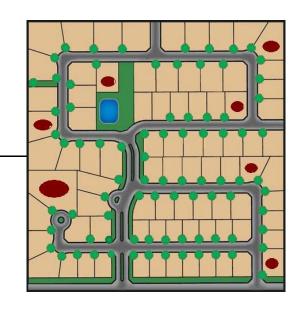
Substantive Policy Statement?



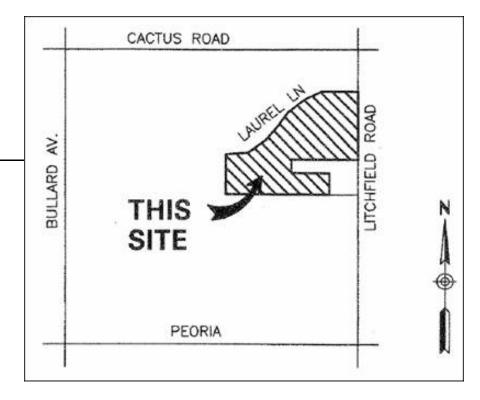
7) What does the Department recommend I do to protect myself from being involved in mortgage fraud when giving a rebate or credit?



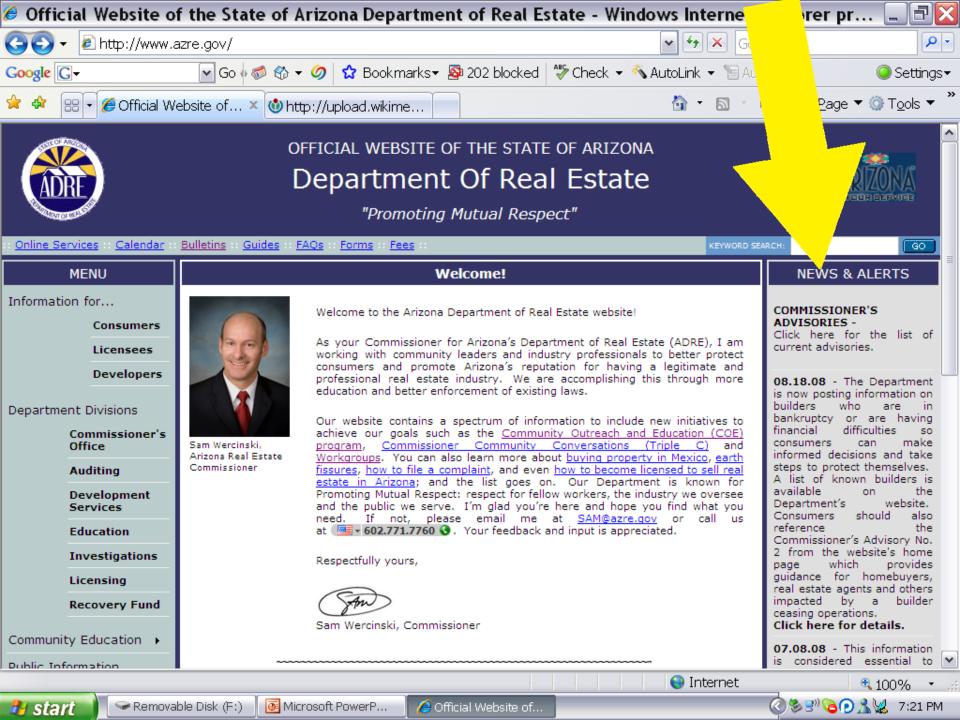
8) What is the penalty for a person or company who, owns, sells, leases or brokers a property to be used as a DROP house?

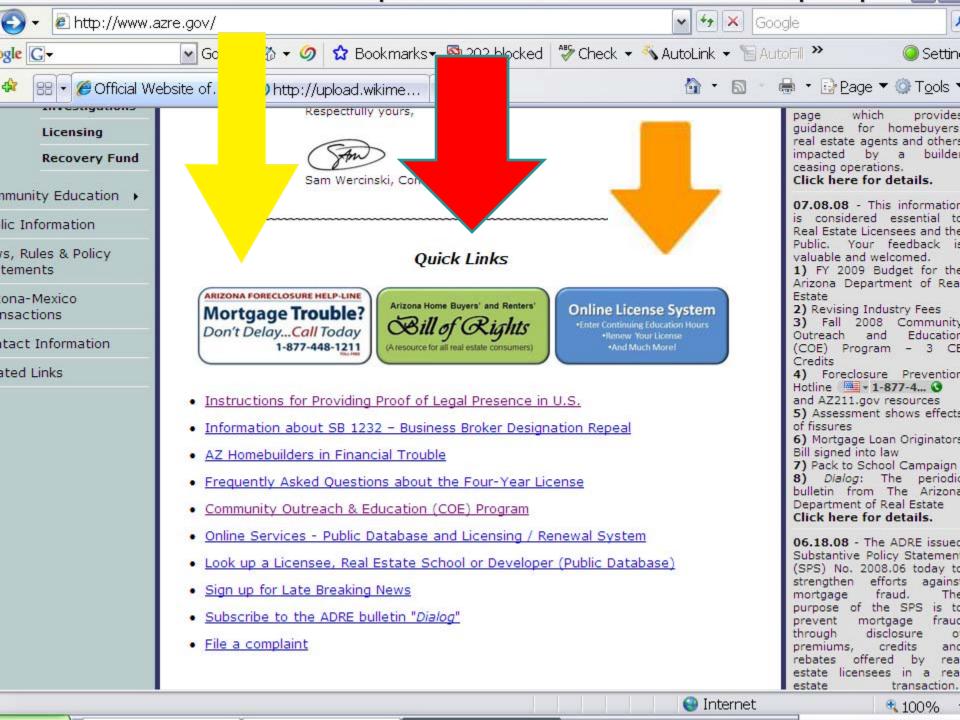


9) A bank owns and is selling 7 properties in an established platted subdivision. Does the bank need a *Subdivision Disclosure Report* before offering these properties for sale to individual buyers?



10) My brother owns 100 acres. He sells me 50 acres, and then we plan to each split our land into 5 10-acre lots for sale. Is this legal?





Arizona Home Buyers' and Renters'



THE ARIZONA DEPARTMENT OF REAL ESTATE, IN COOPERATION WITH INDUSTRY PROFESSIONALS AND THE PUBLIC, CREATED THIS "BILL OF RIGHTS" TO HELP EDUCATE YOU, THE CONSUMER, OF YOUR RIGHTS WHEN PURCHASING OR RENTING PROPERTY. AS A BUYER OF REAL ESTATE IN ARIZONA, YOU HAVE THE RIGHT TO KNOW MATERIAL INFORMATION ABOUT THE PROPERTY.

THE FOLLOWING LIST REPRESENTS SOME OF THE IMPORTANT MATERIAL FACTS YOU SHOULD EDUCATE YOURSELF ON BEFORE PURCHASING ANY TYPE OF PROPERTY IN ARIZONA.

YOU HAVE THE RIGHT TO KNOW:

- . If the property is located in an incorporated city or unincorporated part of the county.
- If title insurance is available and if fire insurance can be acquired.
- If you have fire and police protection and, if so, who provides this service.
- If your <u>roads provide access</u> for fire protection and police service
- · If the roads are maintained, and by whom.
- If <u>utilities</u> are available, and who provides them. (Water, Electric, Gas, Sewer, Trash)
- If your <u>water supply</u> is adequate.
- If the jurisdiction the property is located in has conservation restrictions and policies.
- If your property is located in a school district, and the distance to the closest schools.
- If there are any natural or <u>geological hazards</u>, <u>pests or wildlife</u>.
- If there are essential services near your property such as grocery and medical services.
- If there is crime in your area and the <u>crime rate</u>.
- You have a right to <u>equal housing opportunity</u> free of discrimination.
- If the property is affected by a <u>military installation</u>.
- If there is an <u>Arizona Subdivision Disclosure Report</u>, an <u>Affidavit of Disclosure</u> or a <u>Seller's Property Disclosure Statement</u>, you should read these disclosure documents before you purchase property.

"Bill of Rights" Highlights

- Cities and Counties
- Department of Water Resources
- Department of Education
- Arizona Geological Survey
- Office of Pest Management
- Military Installations
- Subdivision Disclosure Report
- Affidavit of Disclosure
- Seller's Property Statement
- Buyer's Advisory Guide

Arizona Home Buyers' and Renters'

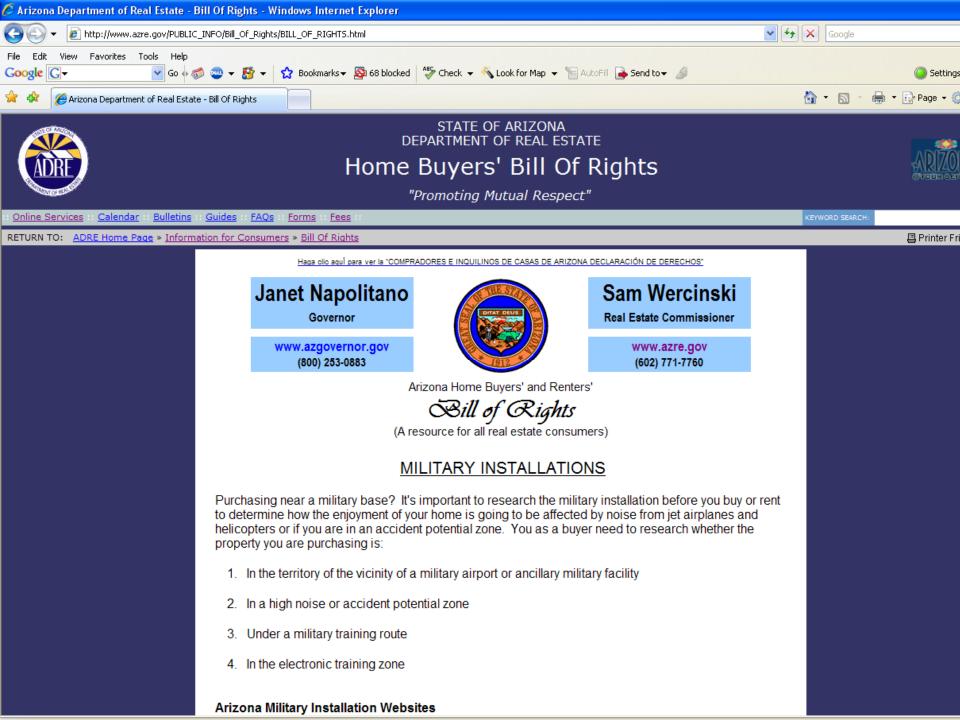


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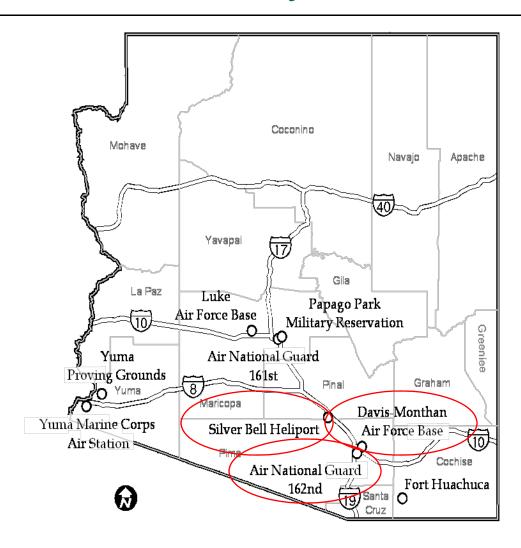
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Arizona Military Installations



"Bill of Rights" Highlights

- Cities and Counties
- Department of Water Resources
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- Arizona Geological Survey
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- Military Installations
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- Affidavit of Disclosure
- Seller's Property Statement
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Arizona Home Buyers' and Renters'

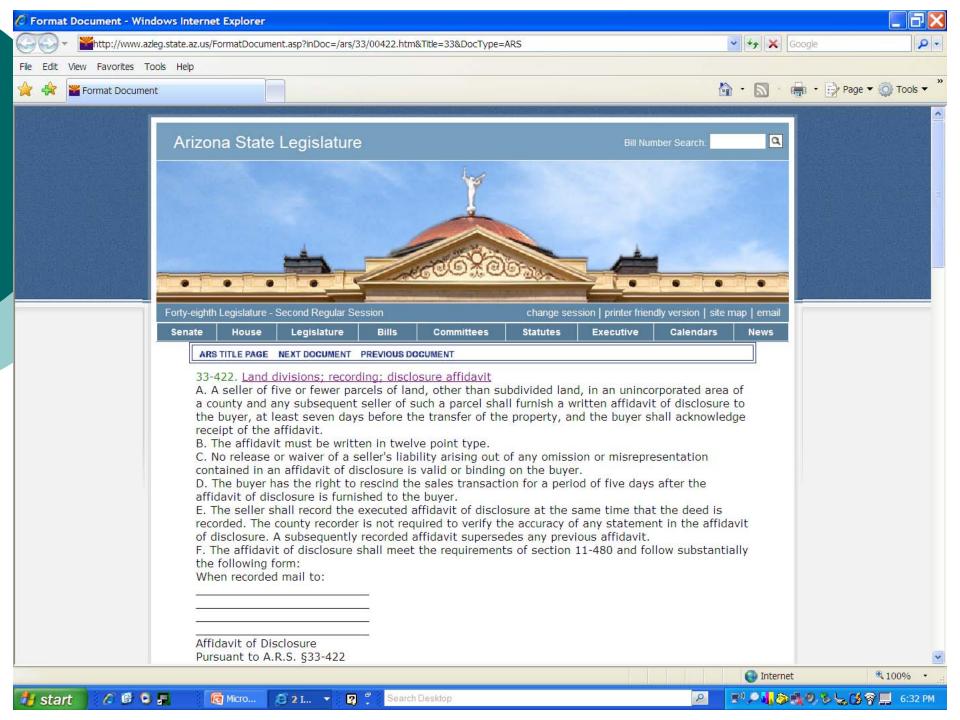


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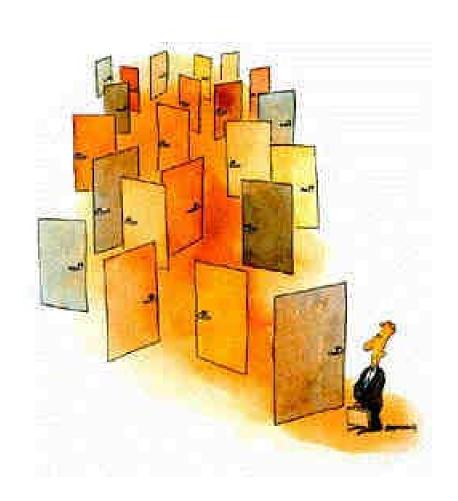
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COMMISSIONER'S ADVISORIES



COMMISSIONER'S ADVISORIES

- Advisory 1: Real Estate Firm Closure
- Advisory 2: Homebuyers Developments
- Advisory 3: Homebuilders,
 Subsequent Owners and Lenders

ALL ADVISORIES ARE GUIDANCE FROM THE COMMISSIONER

COMMISSIONER'S ADVISORY #1

REAL ESTATE FIRM CLOSES



COMMISSIONER'S ADVISORY #2

Guidance for Homebuyers

- •LIENS
- **•DEFECTS**
- PREPAIDS
- COMPLAINTS



COMMISSIONER'S ADVISORY #3

Homebuilders, Subsequent Owners and Lenders

- COMPLETION
- CONTRACTOR LIENS
- FORECLOSURE
- BANKRUPTCY

COMMISSIONER'S ADVISORIES

ADVISORY IS:

Guidance

ADVISORY IS NOT:

Legal Advice, Statute, Rule

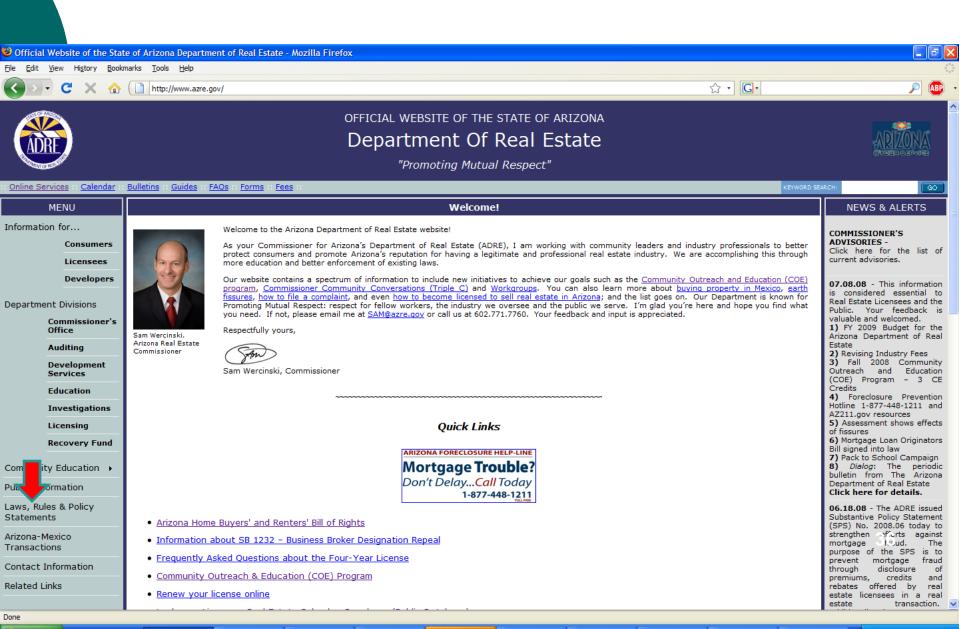
ADVISORY ISSUED:

When there is a need

SUBSTANTIVE POLICY STATEMENTS

New for 2008

Laws, Rules, and Policy Statements



No. 2008.01 Pre-License Education Waiver



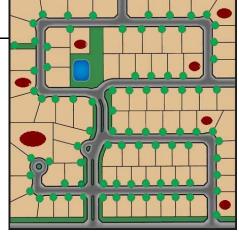
Description: No waiver will be granted for the mandated ninety-classroom hours for real estate salesperson or broker prelicensure curriculum.

Effective Date: February 8, 2008

No. 2008.02

Subsequent Owners/Subdivision

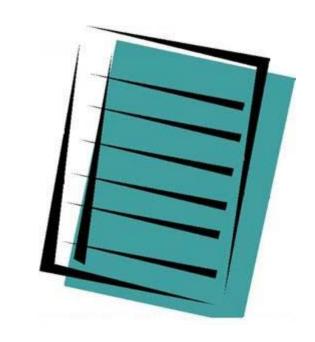
Disclosure Reports



Description: A subsequent owner of 6 or more lots located within an existing platted subdivision for which a Subdivision Disclosure Report was previously issued may qualify for a Special Order of Exemption from the requirement to obtain a new Subdivision Disclosure Report.

Effective Date: February 8, 2008

Special Order of Exemption



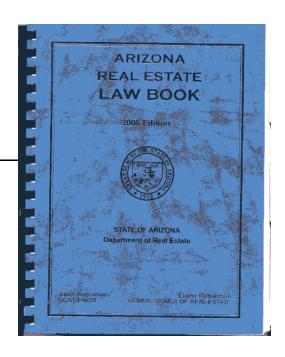
A short cut to the SUBDIVISION DISCLOSURE REPORT

Review of Subdivision Regulations

- SUBDIVISION
- •SUBDIVIDER
- ACTING IN CONCERT



Subdivision



Land divided or <u>proposed to be divided</u> for the purpose of sale or lease, whether immediate or future, *into six* (6) or more lots, parcels or fractional interests.

(for county and state regulatory purposes)

What is "Acting in Concert"?

"[T]o act in concert means only that the parties must agree to act together to divide their land; they need not agree to violate the law. An agreement can be inferred from the parties' conduct."

- Arizona Court of Appeals ruling, June 1998

NO. 2008.04
SHORT TITLE: BUSINESS BROKERS; LICENSE REQUIREMENT CLARIFICATION

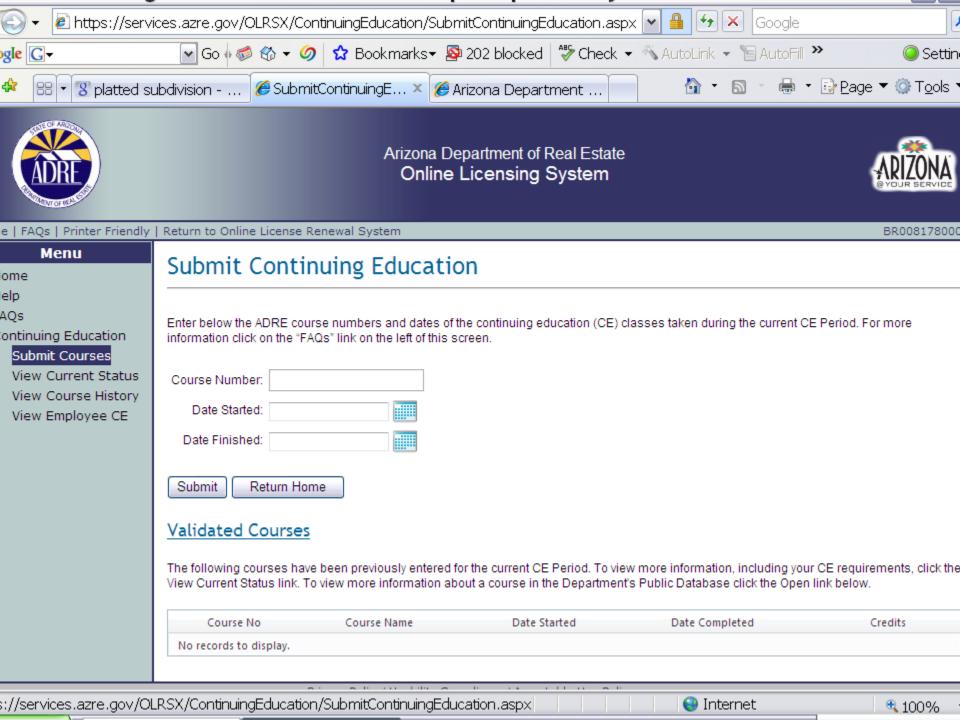
Description: A Business Broker is a person who acts as an intermediary between sellers and buyers of businesses or business opportunities.

Effective Date: April 4, 2008

NO. 2008.05 CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF 4-YEAR LICENSE

Description: An agent or broker (licensee) who has a four-year license must receive 24 hours of continuing education credit (CE) in the first 24 months of the license period and 24 hours of CE in the second 24 months of the license period in order to be eligible for renewal.

Effective Date: June 6, 2008



Online Entry of Continuing Education Credits

Period: First 24 Months Status: Completed Begin Date: 8/1/2006 End Date: 7/31/2008 Completed Date: 8/11/2008

Requirements

Requirements have been satisfied.

Category	Туре	Subject	Required Hours	Accumulated Hours	Remaining Hours
Contract Law	Mandatory	All	3	3	0
Agency Law	Mandatory	All	3	3	0
Fair Housing Issues	Mandatory	All	3	3	0
Real Estate Legal Issues	Mandatory	All	3	3	0
Commissioner's Standards	Mandatory	All	3	3	0
Disclosures	Mandatory	All	3	3	0
All	Elective	All	6	6	0
	Total		24	24	0

Education

Туре	Descri	Description		Date Completed	Hours
Course	33	ENCY LAW: UNDERSTANDING ITS PROTECTIONS FOR TODAY'S AGENTS	7-1-2008	7-1-2008	3
Course	C)DE OF ETHICS 2008- PROCURING CAUSES ON TRIAL	7-1-2008	7-1-2008	3
Course	CI	INTARCT WRITING FOR RESIDENTIAL INVESTORS	7-1-2008	7-1-2008	3
Course	CI	ISCLOSURE	6-1-2008	6-1-2008	3
Course	CI	AIR HOUSING	6-1-2008	6-1-2008	3
Course	C.	GAL FORMS	6-1-2008	6-1-2008	3
Course	Ci	IME ADVANTAGE	8-1-2008	8-1-2008	9
Course	CI	ROPERTY MANAGEMENT	8-2-2008	8-2-2008	3

Return Home

NO. 2008.06

PREVENTING MORTGAGE FRAUD THROUGH DISCLOSURE



Description: The Department recommends that a licensee who provides a premium, credit, or rebate in a real estate transaction disclose the premium, credit, or rebate to <u>all parties</u> in the transaction, including the lender and third-party service providers, such as appraisers, <u>in the purchase agreement and the HUD-1 statement...</u>

Effective Date: June 18, 2008

MORTGAGE FRAUD

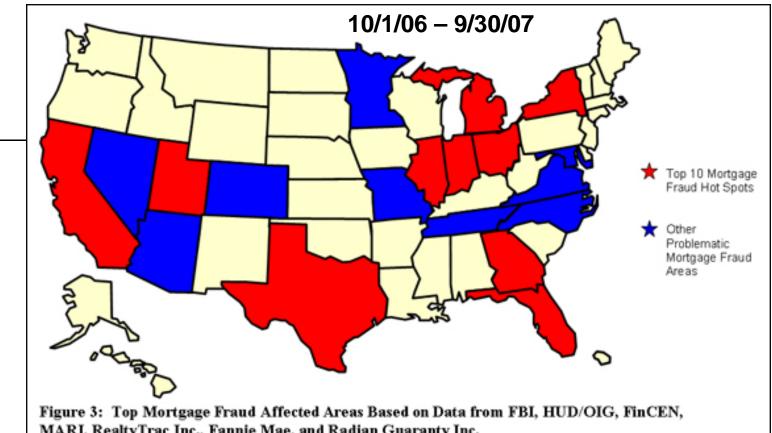
Defined by the FBI as:

"...material misstatement, misrepresentation, or omission relating to the property or potential mortgage relied on by an underwriter or lender to fund, purchase or insure a loan."

SARS



The FBI compiles data on mortgage fraud through Suspicious Activity Reports (SARs) filed by federally-insured financial institutions and the Department of Housing and Urban Development-Office of Inspector General (HUD-OIG) reports.



MARI, RealtyTrac Inc., Fannie Mae, and Radian Guaranty Inc.

Mortgage loan fraud is divided into two categories:

- 1. Fraud for profit
- 2. Fraud for property

EXAMPLE: LOAN FOR PROFIT



•INVESTOR BUYS HOUSE

•INVESTOR RENTS HOUSE

•INVESTOR POCKETS RENT

•INVESTOR DEFAULTS ON LOAN

•LENDER FORECLOSES

•RENTER OUT MONIES

•LENDER OUT MONIES

•INVESTOR GONE

FRAUD FOR PROPERTY



...entails minor misrepresentations by the applicant solely for the purpose of purchasing a property for a primary residence.

HOMEOWNER MORTGAGE FRAUD



- •BUYER FINDS HOME (#2)
- •PUTS HOME (#2) UNDER CONTRACT
- **•SHOWS LEASE FOR CURRENT HOME (#1)**
- •CLOSES ESCROW ON HOME (#2)
- **•DEFAULTS ON HOME #1**
- •FORECLOSURE OF HOME #1

MORTGAGE FRAUD

Money back to the buyer either before or after close of escrow.

MORTGAGE FRAUD...More...

- Falsifying income, down payment.
- Licensee's negligence
- Straw Buyer
- Falsifying Loan Applications
- False Valuations
- False Contractor lien

MORTGAGE FRAUD

Purchase of house for drugs, weapons, storing or manufacturing contraband, or for laundering money

MORTGAGE FRAUD



Bleeding the equity out of a house, and then letting it go into foreclosure.

PREYING ON CONSUMERS

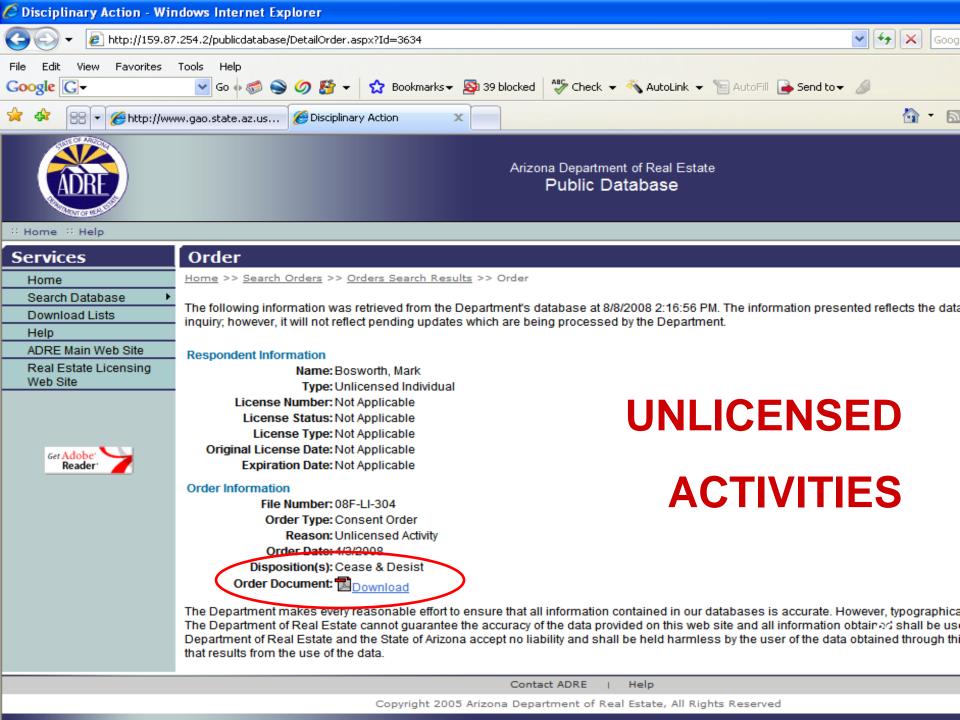
A person's normal life circumstances may make him easier prey:

- Predatory Lending
- Mortgage Elimination
- oForeclosure "Rescue"

PROPERTY MANAGEMENT SCHEMES



- Converting rents and security deposits for private use
- •Charging excessive fees for labor and services, whether they are performed or not.



2008 LEGISLATIVE CHANGES

LOAN ORIGINATOR LICENSING

 All loan originators in Arizona must be licensed by 2010

 Loan originators will be regulated by the Department of

Financial Institutions

SB1491



Requires ADRE to provide notice to property owners in an illegal subdivision



Increases allowable fine from \$1,000 to \$5,000 per infraction for illegal subdividing

SB1232

Eliminates Business Broker
Designation from statute. All current
designations will remain until renewal.
Effective Sept, 26, 2008

Protects licensee email address and personal information

Retroactive to January 1, 2008

HB2842

Class 4 felony for persons or companies that own, sell, lease, or broker a transaction involving a property that will be used as a drop house.



SB1387

Requires disclosure of a Military Electronics Range (Ft. Huachuca)

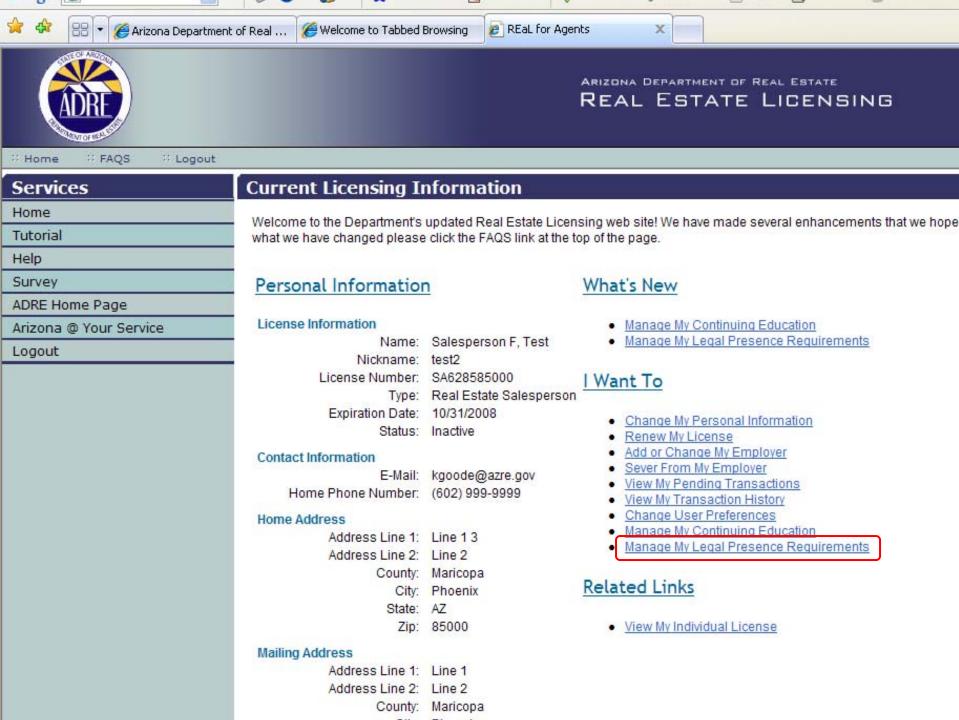
SB1006

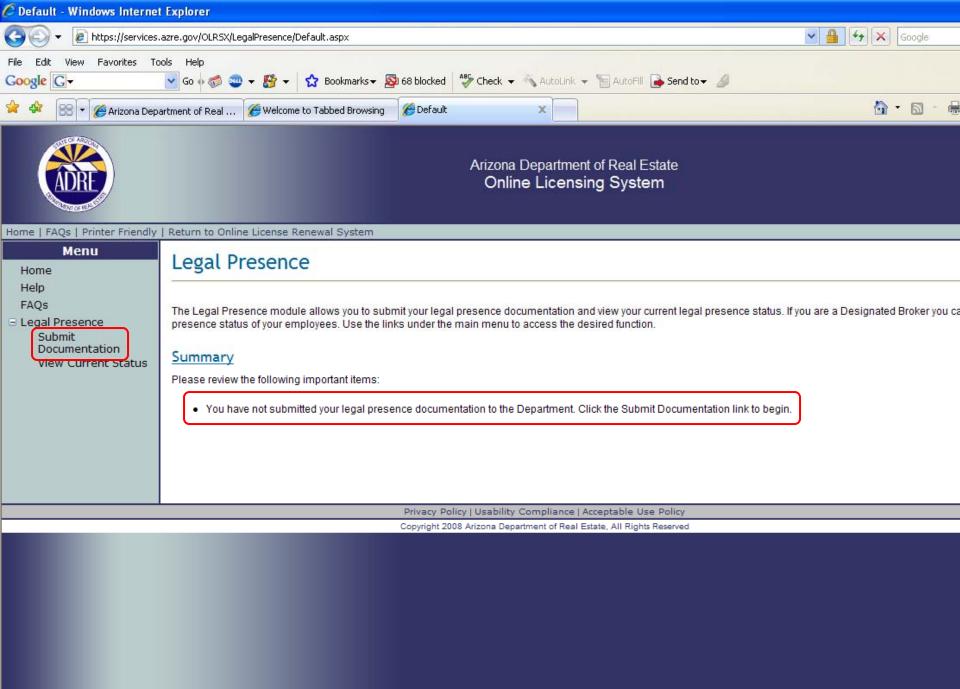
Extends timeframe to renew license for active military personnel

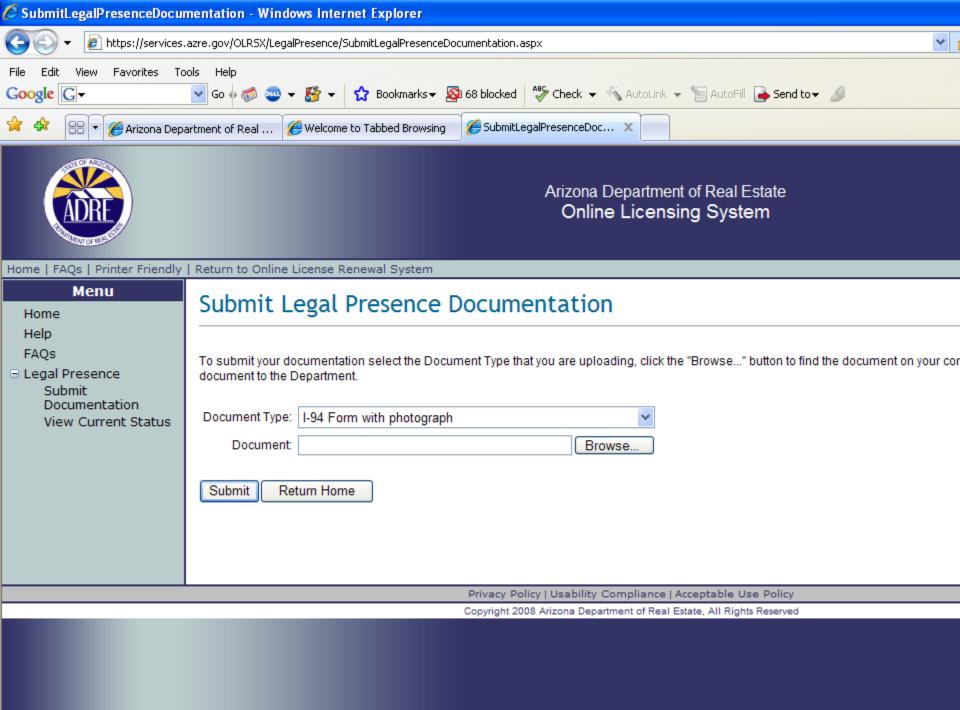
Legal Presence

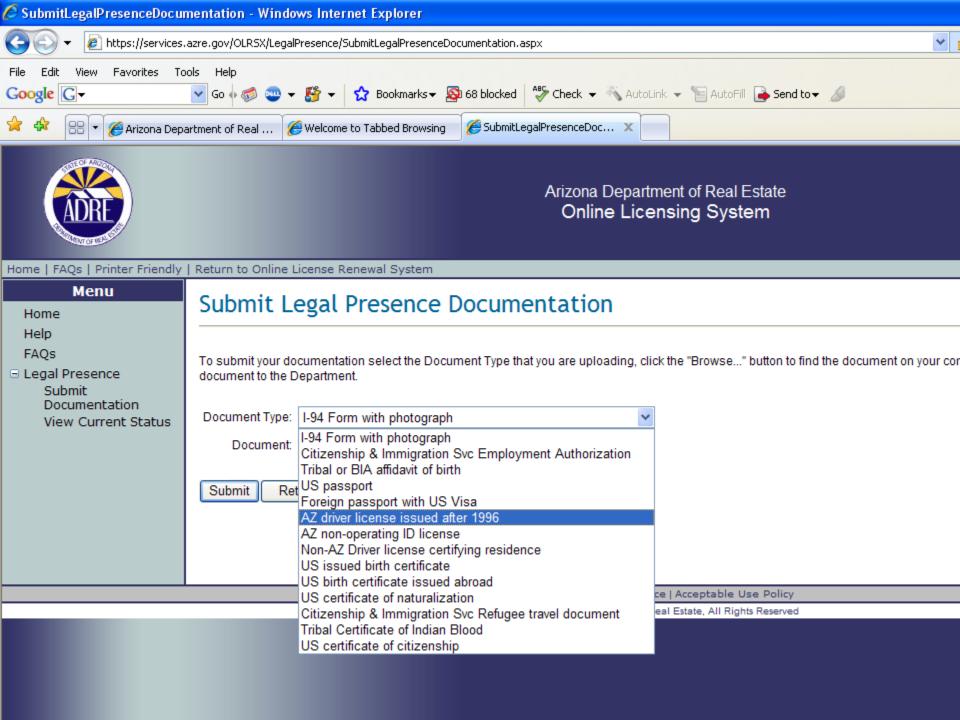
- OA.R.S. §41-1080
 - Proof of legal presence required before ADRE can issue a license

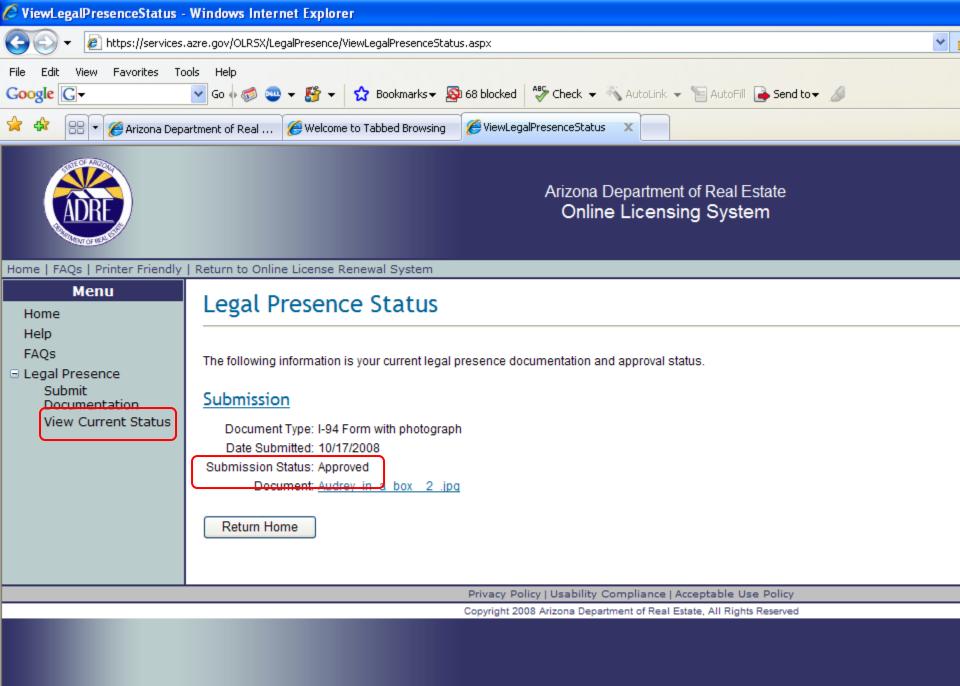
> Includes renewals











MORE REAL ESTATE-RELATED LEGISLATION

- Lending and Credit
- Divorce
- Water, Flood Control, and Infrastructure
- Municipal Regulation
- Contractor Regulations
- Taxes and Insurance
- Guardians, Conservators, and Trustees
- Condos & Homeowners Associations
- Employer Issues

RE-QUIZ

- 1. What is the Homebuyers' and Renters' Bill of Rights?
 - AAR's list of things to expect from agent
 - 2. ADRE's list of some of the material facts for consumers to educate themselves on before purchasing or renting a home
 - 3. HUD's requirements for purchase

2. What is a Commissioner's Advisory?

- 1. Law
- 2. Rule
- 3.) Guidance from the Commissioner

3. As an agent, if my brokerage closes, can I take my listings with me to the next brokerage?

- 1. Yes
- 2. No
- 3. The listing agreement is void; therefore, the seller determines whether or not to re-list with you and or someone else.

4. My renewal license is good for 4 years; *how often* is continuing education required?

- 1. 24 hours every 48 months
- 2.) 24 hours every 24 months
- 3. 12 hours every 12 months

- 5. <u>How</u> and <u>when</u> do I report my continuing education to the Department?
 - 1. Online using the Department's website: www.azre.gov as soon as you receive a course number.
 - 2. Mail 90 days before expiration
 - 3. In person the day of expiration

6. What is a Substantive Policy Statement?

- 1. Statute
- 2. Rule
- 3. Explanation/Interpretation of statute or rule

- 7. What does the Department recommend I do to protect myself from being involved in mortgage fraud when giving a rebate or credit to a principal in a transaction?
 - 1. Disclose the rebate or credit on the HUD-1 statement
 - Disclose the rebate or credit on the purchase contract
 - 3. Both

- 8. What is the penalty for a person or company who, owns, sells, leases or brokers a property to be used as a DROP house?
 - 1. 2.5 years in jail (Class 4 felony)
 - 2. Letter of reprimand from ADRE
 - 3. Loss of commissions

- 9. A bank owns and is selling 7 properties in an established platted subdivision. Does the bank need a Subdivision Disclosure Report before offering these properties for sale to individual buyers?
 - 1.) Yes
 - 2. No
 - 3. May apply for an exemption

LAST RE-QUIZ QUESTION!!!

10. My brother owns 100 acres near Prescott. He sells me 50 acres, and then we will each split our land into 5 10-acre lots for sale. Is this legal?

1. Yes

2. No

Sam Wercinski Arizona's Real Estate Commissioner

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Kathy Howe Real Estate Advisory Board Member Educator/Broker

kathy@kathyhowe.com www.how2educate.com